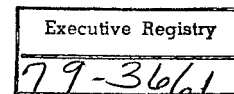


OGC 79-02116  
6 March 1979

OGC Has Reviewed



MEMORANDUM FOR: Director of Central Intelligence

VIA: Deputy Director of Central Intelligence

FROM: Anthony A. Lapham  
General Counsel

SUBJECT: CIA Implementation of Ethics in Government  
Act of 1978

REFERENCES: A. OGC Memo 78-8566 to DCI, dated 29 December  
1978, same subject  
B. DDA Memo 79-0101/1 to DCI, dated  
22 January 1979, same subject  
C. IG Memo 79-0170a to General Counsel,  
dated 13 February 1979, subj: Role of  
the IG in Conflict of Interest Situations

1. Action Requested: Your approval of the recommendations set forth in this memorandum.

2. Background: On 29 December I recommended that you appoint someone to serve as the "designated agency official" to administer the provisions of Title II of the "Ethics in Government Act of 1978," which requires, among other things, that high-ranking government officials make detailed reports of their financial holdings. By memorandum to you dated 22 January, Don Wortman has recommended that you appoint me to this position, and the Inspector General has agreed. While I cannot say the General Counsel, or the Deputy General Counsel, are the only logical candidates for this position, and while I cannot pretend that I feel much enthusiasm about the appointment, neither can I say that it would make any better sense to designate any other Agency official. I therefore concur in the DDA's recommendation, although for reasons noted in paragraph 3 below I think the designee should be the Deputy General Counsel rather than the General Counsel.

3. Whoever is appointed to serve as designated agency official will be ultimately responsible for the receipt and review of all statements of financial interests filed by supergrades by 15 May of each year and upon assuming or

leaving their supergrade positions. He must also ensure full internal implementation of the Act in all other respects and respond to the oversight inquiries of the Office of Government Ethics. Particularly in the early stages of Agency implementation of this program, the designated official must be personally and substantially involved to ensure compliance. It is my personal belief that the duties of my Office are such that the General Counsel will be unable to devote sufficient personal attention to these matters, particularly during these next few crucial months. Moreover, the General Counsel currently has overall responsibility for the Agency's ethics program. Because the role of the designated agency official under Title II of the Act is just one aspect of this overall program, and because that role will absorb more time than the General Counsel will have available, I recommend that you appoint the Deputy General Counsel instead. If you concur, it is my expectation that he would redelegate some of the functions, as outlined below and as permitted by applicable Office of Personnel Management guidance, and this memorandum also seeks your approval of these plans, at least in concept.


4. As I see it, several functions are involved in the implementation of the Act. First, there is an administrative function. Current employees covered by the provisions of the Act must be provided the appropriate forms for filing their statements of financial interests, as must employees at the time they enter or terminate duty, and records must be kept to ensure compliance with the reporting requirements. The reports themselves must be kept for six years. Educating employees as to these requirements also seems to me to fit within this administrative category.

5. Second, it is evident that the Act requires the performance of fact-gathering and judgmental functions. The financial statements submitted to the Agency must be reviewed to determine if all the required information has been provided and to spot potential for any conflicts of interests. So, for example, the initial reviewer will have to look for evidence of ownership of stock in Agency contractors, or corporate parents or subsidiaries of Agency contractors. It will also be necessary at the initial review stage to obtain job descriptions of the reporting officials in order to assist in gauging the effect of reported financial interests or liabilities upon a particular employee's duties. In my view these tasks, which will require a consistency of approach across all Agency components, could most efficiently and economically be performed by an Agency Ethics Panel, comprised of senior representatives from each of the Agency's major components, supported as necessary by OGC and IG services, and chaired by a senior DDA official, such as the

Director of Personnel. The chairman would coordinate the receipt and initial review of all statements of financial interests submitted under the new law, and would be the certifying officer with respect to all those statements, presumably many if not most of the total, that clearly raise no questions of conflict of interests. In doubtful cases or in cases involving obvious conflict of interests questions, the chairman would refer the matter to the Deputy General Counsel, who would conduct a second-stage review, make the necessary determinations, and become the certifying official.

6. In sum, the General Counsel would continue to serve as the DCI's Ethics Counselor and be responsible for the Agency's overall ethics program, including the preparation of appropriate internal regulations. The Deputy General Counsel would serve as the designated agency official to administer the financial disclosure provisions of Title II of the new ethics law, but would redelegate some of the day-to-day responsibilities. Thus, for example, the DDA would be asked to ensure that all current, new, and departing employees are provided the requisite forms to fill out, maintain appropriate records, and provide any training necessary for the education of employees as to the requirements of the law. The initial review function would fall to an Agency Ethics Panel. [The Panel's duties should, I believe, include review, perhaps merely a spot check based upon a random selection, of financial statements currently filed under E. O. 11222 and which must continue to be filed by certain employees not covered by the new law. Although the responsibility for reviewing reports filed pursuant to the E. O. now rests with the various components, the IG, DDA, and I agree that this suggested procedure would help to ensure the integrity of the entire process.] After the completion of initial review, the panel chairman would certify those statements that raise no conflict of interests questions. Cases involving unresolved conflict questions would be referred for decision to the Deputy General Counsel, who would act as reviewer and certifying officer in such cases.

7. Recommendation: I recommend that you approve the appointment of the Deputy General Counsel as the "designated agency official" for the purposes of administering the financial disclosure provisions of the new ethics law, and that you give your conceptual approval to the other arrangements outlined above. Attached for your information, in draft form prepared by the Office of Government Ethics, is a copy of the financial statement that each employee will have to fill out.

  
Anthony A. Lapham

Attachment

6 March 1979

MEMORANDUM FOR: Director of Central Intelligence  
VIA: Deputy Director of Central Intelligence  
FROM: Anthony A. Lapham  
General Counsel  
SUBJECT: CIA Implementation of Ethics in Government  
Act of 1978

APPROVE:

/s/ Stansfield Turner

Director of Central Intelligence

14 MAR 1979

DISAPPROVE:

Date

Director of Central Intelligence

STAT

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